



# County of Los Angeles CHIEF EXECUTIVE OFFICE

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May 13, 2013

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From: William T Fujioka  
Chief Executive Officer

## SACRAMENTO UPDATE

### Executive Summary

This memorandum contains a report on the following:

- **Pursuit of County Position to Oppose AB 5 (Ammiano).** This measure would enact the Homeless Person's Bill of Rights and Fairness Act, which provides, among other rights: 1) the right to move freely, rest, eat, share food and water, solicit donations or collect junk for recycling in public spaces, without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement; and 2) access to health and hygiene centers (with restrooms and showers) 24 hours, a day, seven days a week, which would be administered by county agencies overseeing public health programs. Therefore, unless otherwise directed by the Board, consistent with existing Board-adopted policies, **the Sacramento advocates will oppose AB 5.**

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### Pursuit of County Position on Legislation

**AB 5 (Ammiano)**, as amended on April 30, 2013, would enact the Homeless Person's Bill of Rights and Fairness Act, which would provide, among other provisions:

- Right to move freely, rest, eat, share food and water, solicit donations, practice religion, or collect junk for recycling in public spaces, or use a motor vehicle as shelter, without being subject to criminal or civil sanctions, harassment or arrest by law enforcement;

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- Access to health and hygiene centers (with restrooms and showers) 24 hours a day, seven days a week, which would be administered by county agencies overseeing public health programs and be designated and funded by the State Department of Public Health;
- Immunity from employer retaliation and criminal or civil sanctions or arrest, for any public employee who offers available public resources to a homeless person in order to protect that person from harm;
- That every local law enforcement agency compile and review the number of citations and arrests made pursuant to laws prohibiting, among other acts: loitering; camping; public lodging; soliciting donations; bathing in public places; inhabiting a vehicle; violating public park closure laws; trespassing; failure to appear, pay a fine, post bail or comply with a court order; and other local ordinances or State laws enforced against homeless persons; and require that this compilation be submitted to the Attorney General annually and be made publicly available;
- Right to counsel if a county chooses to initiate judicial proceedings for any of the citations and arrests made pursuant to the above-mentioned ordinances or laws; and also require that the county pay the cost of providing counsel; and
- Right to bring a civil action for any rights violated under the Act and to subsequent court-awarded injunctive and declaratory relief; restitution for loss of personal belongings; actual, compensatory, exemplary and statutory damages; and attorney's fees.

AB 5 defines public space as any property that is owned by any State or local government entity or upon which there is an easement for public use and that is held open to the public, including plazas, courtyards, parking lots, sidewalks, public transportation, public buildings and parks.

The bill defines harassment as conduct directed at a specific person that a reasonable person would consider as seriously alarming, annoying, tormenting or terrorizing.

### **Potential County Impact**

Numerous affected departments have reviewed AB 5 and provided an overview for potential impact to the County as described below.

The Department of Public Health (DPH) raised the following key concerns:

- The Department would incur significant costs to implement a program to establish, manage and inspect health and hygiene centers, with restrooms and showers, to be maintained as safe and clean, 24 hours a day, 7 days a week;
- The right to share food in public spaces and collect and store recyclables or junk would increase costs needed to handle environmental health issues, such as foodborne illnesses and nuisance or vermin complaints and investigations;
- The Department indicates that it applies legal sanctions to ensure compliance with the Health and Safety Code, and the provision that provides that any person offering water or food to a homeless person shall be free from criminal or civil sanctions would interfere with DPH's ability to effectively enforce safety measures for the food and water given to the homeless as well as to protect the health of this population from additional food borne illnesses, thereby leading to an increase in DPH's efforts in foodborne illness monitoring and investigations; and
- The right to restitution for loss of personal belongings would restrict DPH's ability to enforce public health measures. Restrictions to remove debris, junk, recyclables and other vermin harborage and unregulated storage of such items may cause sanitation and vermin issues at the vast areas of public spaces at which these items are stored.

While AB 5 indicates that certain provisions, such as the health and hygiene centers, will be funded by the State Department of Public Health, AB 5 does not identify or appropriate funding to meet these requirements. According to DPH, these provisions would likely result in a significant unknown fiscal impact to the County.

County Counsel indicates that the broad and vague nature of AB 5 would make it more difficult to defend the County or its employees in litigation that may arise from the provisions of the bill, especially since the legislation provides for not only recovery of compensatory damages, but also exemplary damages as well as attorney's fees.

The Department of Public Works (DPW) raised concerns about adverse impacts on flood control facilities that are adjacent to bike paths, reservoirs or open grounds. AB 5 may affect DPW's efforts to restrict trespassers and overnight campers from occupying these public, open spaces, which would interfere with departmental operations.

The Department of Parks and Recreation indicates that AB 5 would adversely impact the Department by increasing staff costs to provide access at its vast geographical

areas of public spaces while keeping them safe for regular patron use, as well as maintaining its restrooms and showers. The Department operates 402 public facilities which contain restrooms and/or showers.

The Department of Beaches and Harbors (DBH) reports that AB 5 may impact the operation and patron use of its parking lots and that homeless encampments in parking lots would interfere with the Department's ability to maintain patrons and business, potentially leading to a significant decrease in one of its main sources of revenue. DBH operates 51 public restroom facilities, 46 of which have outdoor showers.

The Museum of Natural History, Museum of Art (LACMA), and the Public Library are similarly concerned that keeping their public spaces accessible would significantly increase their staffing, operational, security, custodial, maintenance, and supplies costs, in order to keep their vast public spaces clean, safe and accessible. LACMA indicates that adverse impacts would be compounded by the potential risk of damage to its valuable paleontological and cultural resources and irreplaceable sculptures located at its unfenced gardens, which adjoins Hancock Park.

The above-mentioned departments also raised a significant concern for susceptibility to increased liability at public parks, beaches, outdoor properties, facilities, recreational areas, and other public spaces.

The Sheriff's Department has concerns with AB 5 as it relates to essential law enforcement activities and has particular concerns with the potential impact on transit stations and its transit operations due to potential public safety issues.

The Department of Public Social Services (DPSS) indicates that any impact for the demand of additional social services under AB 5 is unknown at this time. According to DPSS, in Los Angeles County, the number of homeless CalWORKs families has risen during the last six years to a historic high of 12,861 families. In addition, over 50 percent of individuals on General Relief are homeless.

The Los Angeles Homeless Services Authority indicates that while it supports homeless rights and urges the State to increase funding to support the ability of local jurisdictions to provide basic services like restrooms and storage capacity, AB 5 is overly complex and ignores the State's role in providing funding to support basic needs.

While the intent to make services available to homeless individuals and reduce harassment that the homeless population may experience are important and valued by the County, the costs associated with security, liability and maintenance of the vast areas of the County's public spaces; increased reporting requirements; potential civil actions brought against law enforcement employees or public agencies; and the over-

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reaching paralyzing of local authority and discretion to enforce local ordinances that are structured to the unique concerns of each particular locality, leads the County to pursue a position to oppose AB 5.

This office, the Department of Public Health, Parks and Recreation, Beaches and Harbors, Museum of Natural History, Museum of Art, Public Library, and the Sheriff's Department recommend opposition of AB 5. Therefore, unless otherwise directed by the Board, consistent with existing policy to oppose new unfunded mandates as well as legislation that would increase exposure to, or reduce immunities from, governmental liability related to the ownership, operation, or maintenance of recreational facilities, **the Sacramento advocates will oppose AB 5.**

AB 5 is co-sponsored by: Western Regional Advocacy Project; East Bay Community Law Center; Jericho: A Voice for Justice; and Western Center on Law and Poverty.

AB 5 is supported by 89 organizations and many individuals, including: American Civil Liberties Union; Los Angeles Community Action Network; The City of Richmond; California Hunger Action Coalition; California Nurses Association; California Senior Legislature; Coalition of California Welfare Rights Organizations; Health Care for the Homeless Los Angeles; Hunger Action Los Angeles; Los Angeles Human Right to Housing Collective; Los Angeles Anti-Eviction Campaign; Los Angeles Poverty Department; Public Law Center, among others.

AB 5 is opposed by 49 organizations, including: The California State Sheriffs' Association; California Police Chiefs Association; California Special Districts Association; League of California Cities; Counties of Sacramento and Lassen; City of Bellflower; Buena Park, Concord, Corona, Cypress, Lake Forrest, Palmdale, Menifee, Signal Hill, and Thousand Oaks; California Chamber of Commerce; and the editorial boards of: The Los Angeles Times; Sacramento Bee; San Francisco Chronicle; and Fresno Bee, among others.

AB 5 is scheduled for hearing in the Assembly Appropriations Committee on May 15, 2013.

We will continue to keep you advised.

WTF:RA  
MR:KL:ma

c: All Department Heads  
Legislative Strategist